

APR 12 2005

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CUSTOMER NO.: 20995

## TERMINAL DISCLAIMER UNDER 37 C.F.R. § 1.321

Applicant : Andrew H. Cragg  
 Appl. No. : 09/848,556  
 Filed : May 3, 2001  
 For : METHODS OF PERFORMING  
PROCEDURES IN THE SPINE  
 Examiner : Pedro Philogene  
 Group Art Unit : 3732

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

*Empowerment of Attorney*

Pursuant to 37 C.F.R. § 1.321(b) the undersigned attorney of record is empowered to act on  
 behalf of the Assignee, TranS1, Inc. ("Assignee"), by virtue of a Power of Attorney executed on  
 December 20, 2001, a copy of which is attached.

*Right of Assignee and Ownership*

In accordance with 37 C.F.R. § 3.73(b), TranS1, Inc., Assignee represents that it is the  
 owner of a 100 percent interest in the above-identified application and co-owned U.S. Patent No.  
 6,558,390 filed as (U.S. Application No. 09/782,583), all by virtue of an assignment recorded at  
 Reel No. 0137991, Frame No. 0143 by the Assignment Branch of the Patent and Trademark Office.  
 The Assignee represents that, to the best of Assignee's knowledge and belief, title is in the Assignee  
 seeking to take action.

*Disclaimer by Assignee*

Assignee hereby disclaims, except as provided below, the terminal part of the statutory term  
 of any patent granted on the above-referenced application that would extend beyond the expiration  
 date of the full statutory term of Patent No. 6,558,390 and hereby agrees that any patent so granted

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on the above-identified application shall be enforceable only for and during such period that the above-identified application and Patent No. 6,558,390 are co-owned. This agreement extends to any patent granted on the above-referenced application and shall be binding on its successors or assigns.

Assignee does not disclaim any terminal part of any patent granted on the above-referenced application prior to the earlier of the expiration date of the full statutory term Patent No. 6,558,390 and that of any patent issuing on the above-identified application in the event that either one later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title stated above.

This Terminal Disclaimer is accompanied by the \$65 fee set forth in 37 C.F.R. § 1.20(d).

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 4/12/05

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